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Tracey M. DeVaux  
Legal Assistant

CC Docket No 96-98

November 26, 1997

**Ex Parte**

Mr. William F. Caton  
Office of the Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, DC 20554

RECEIVED  
AUG 12 1998  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Bell Atlantic Response to November 19 ALTS Letter

Dear Mr. Caton:

Attached please find a copy of a letter filed yesterday with Chairman William Kennard in response to the November 19 ALTS Letter.

Please enter this ex parte filing into the record as appropriate. Should you have any questions, please do not hesitate to contact me.

Sincerely,

*Tracey M. DeVaux*

cc: W. Kennard  
R. Metzger  
J. Schlichting  
E. Krachmer  
T. Power  
M. Salas - Secretary

Richard J. Metzger (ALTS)

Bell Atlantic Network Services, Inc.  
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Edward D. Young III  
Senior Vice President & Associate General Counsel  
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November 25, 1997

By Hand

Hon. William E. Kennard, Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
8th Floor  
Washington, D.C. 20554

Dear Chairman Kennard:

This responds to a letter addressed to you dated November 19, 1997 from Richard J. Metzger, General Counsel of ALTS.

The ALTS letter claims, based solely on snippets from recent news articles, that Bell Atlantic "now admits" that Internet access traffic "is treated as local under the Commission's Rules." As a result, it asks the Commission to declare that internet access traffic that is handed off to competing carriers qualifies as local traffic subject to the payment of reciprocal compensation under section 251 of the 1996 Act.

The ALTS letter, and to some extent the press reports it relies upon, confuses two very different issues.

The first issue is whether internet access providers must pay exchange access charges to compensate local exchange carriers for the use of their local networks. Today, the answer is no. Under the so-called enhanced service provider exemption, this traffic is treated as if it were local for the limited purpose of determining whether access charges apply. For all other purposes, the Commission repeatedly and consistently has held since 1983 that the traffic itself is interexchange, and overwhelmingly interstate, in nature. Indeed, if it were not, the Commission would have been without jurisdiction to create and enforce the exemption in the first place.

The second issue is whether, in addition to foregoing access revenues, local exchange carriers also must pay reciprocal compensation when they hand off traffic to competing providers that is bound for internet access providers. The issue is significant both because the calls are all made from the customer to the internet, and because the

competing carrier and the internet access provider typically are one and the same, as is the case with MFS/Worldcom and UUNet. Ironically, if local exchange carriers were required to pay reciprocal compensation on this traffic, in many instances they would end up paying competing carriers more than they receive each month to provide a given customer's local telephone service.

This not only would defy common sense, but also would be unlawful. As the Commission has expressly held, and the court of appeals affirmed, reciprocal compensation charges apply only to local traffic – not to interexchange or interstate traffic. The Commission also consistently has held that internet access traffic is interexchange, and predominantly interstate. This same conclusion also is required by the Act itself, which defines local exchange traffic to include calls within a single exchange (or interconnected series of exchanges). By definition, however, traffic bound for the internet leaves the local exchange. In fact, it leaves the public switched network altogether. As a matter of law, therefore, it cannot be subject to reciprocal compensation charges.

In short, ALTS is both wrong about Bell Atlantic's position on this issue and is wrong on the substance. As a result, the Commission promptly should deny the request filed by ALTS to declare that internet access traffic is subject to reciprocal compensation.

I would welcome the opportunity to discuss this issue with you further at your convenience.

Sincerely,



Edward D. Young, III

cc: R. Metzger  
J. Schlichting  
E. Krachmer  
T. Power  
M. Salas - Secretary

Richard J. Metzger (ALTS)